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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/760,028 | 01/12/2001 | Stuart Berkowitz | 668437600004 | 1857 |

7590 06/25/2004
Jones, Day, Reavis & Pogue
North Point
901 Lakeside Avenue
Cleveland, OH 44114

EXAMINER

DUONG, THOMAS

ART UNIT PAPER NUMBER

2143

DATE MAILED: 06/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/760,028

Applicant(s)

BERKOWITZ ET AL.

Examiner

Thomas Duong

Art Unit

2143

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 January 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 January 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. Applicant is reminded of the proper content of an abstract of the disclosure.

A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure. If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. In certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof. If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative. The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art.

Drawings

2. The drawing is objected to under 37 CFR 1.84(h)(5) because modules 208 and 216 of figure 8 show the same view. Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an

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amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1 and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Dunn et al. (US005999612A).
5. With regard to claims 1 and 27, Dunn reference discloses,
- *a first connection port to allow a speech-based conversation to occur over the home-based broadband connection (cable network 21) to the Internet network;*
(Dunn, col.2, lines 16-27, lines 32-42; col.3, lines 53-56; col.15, lines 39-57; fig.2;
Dunn teaches of an adapter that includes ports for connecting to the Internet through the broadband network of the service provider and for connecting to the

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public switched telephone network (PSTN). Furthermore, the adapter allows telephone calls to be routed through the Internet or the PSTN telephony network)

- *a second connection port to allow a speech-based conversation to occur over a public switched telephone network (PSTN) (LEC/PSTN 28); and (Dunn, col.2, lines 16-27, lines 32-42; col.3, lines 57-61; col.15, lines 39-57; fig.2; Dunn teaches of an adapter that includes ports for connecting to the Internet through the broadband network of the service provider and for connecting to the public switched telephone network (PSTN). Furthermore, the adapter allows telephone calls to be routed through the Internet or the PSTN telephony network)*
- *a plurality of speech engines that recognize speech and synthesize speech to allow the speech-based conversations to occur over the first connection port and the second connection port. (Dunn, col.2, lines 32-42; col.6, lines 65-67; modules 54-57, fig.4; Dunn teaches of an adapter that includes microphone and speaker devices for providing telephone services through the Internet via the broadband network of the service provider or through the public switched telephone network (PSTN). Thus, Dunn suggests of speech engines to allow telephone calls to be routed through the Internet or the PSTN telephony network via the adapter)*

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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7. Claims 1-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dunn et al. (US005999612A) and in view of Vander Molen (US004520576).
8. With regard to claims 1 and 27, Dunn reference discloses,
- *a first connection port to allow a speech-based conversation to occur over the home-based broadband connection (cable network 21) to the Internet network;* (Dunn, col.2, lines 16-27, lines 32-42; col.3, lines 53-56; col.15, lines 39-57; fig.2; Dunn teaches of an adapter that includes ports for connecting to the Internet through the broadband network of the service provider and for connecting to the public switched telephone network (PSTN). Furthermore, the adapter allows telephone calls to be routed through the Internet or the PSTN telephony network)
 - *a second connection port to allow a speech-based conversation to occur over a public switched telephone network (PSTN) (LEC/PSTN 28); and* (Dunn, col.2, lines 16-27, lines 32-42; col.3, lines 57-61; col.15, lines 39-57; fig.2; Dunn teaches of an adapter that includes ports for connecting to the Internet through the broadband network of the service provider and for connecting to the public switched telephone network (PSTN). Furthermore, the adapter allows telephone calls to be routed through the Internet or the PSTN telephony network)

However, Dunn reference does not clearly disclose,

- *a plurality of speech engines that recognize speech and synthesize speech to allow the speech-based conversations to occur over the first connection port and the second connection port.*

Vander Molen teaches,

- *a plurality of speech engines that recognize speech and synthesize speech to allow the speech-based conversations to occur over the first connection port and*

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the second connection port. (Vander Molen, col.2, lines 15-33; col.4, lines 7-23;

Vander Molen teaches of conversational voice command control system for a home appliance that includes speech recognition and synthesis modules)

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine Vander Molen reference with Dunn reference to enable the cable network providers to compete with the PSTN in offering telephony services. By allowing for seamlessly and effective integration of the existing telephony functions via speech recognition and synthesis modules, broadband providers can offer telephony services over their broadband networks or the PSTN network.

9. With regard to claims 2-5 and 28-29, Dunn and Vander Molen references disclose the invention substantially as claimed,

See *claims 1 and 27* rejection as detailed above.

Furthermore, Van Molen reference discloses,

- *an appliance control software module that controls at least one home appliance based upon the user's voice command.* (Vander Molen, col.2, lines 15-33; col.4, lines 7-23; Vander Molen teaches of conversational voice command control system for a home appliance that includes speech recognition and synthesis modules)

10. With regard to claims 12-16, Dunn and Vander Molen references disclose the invention substantially as claimed,

See *claims 1 and 27* rejection as detailed above.

Furthermore, Dunn reference discloses,

- *wherein the computer operates within a residential home of a user.* (Dunn, col.2, line 65 – col.3, line 4)

11. Claims 6-11 and 30-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dunn et al. (US005999612A), in view of Vander Molen (US004520576) and further in view of Kurganov et al. (US006721705B2).

12. With regard to claims 6-11 and 30-32, Dunn and Vander Molen references disclose the invention substantially as claimed,

See *claims 1 and 27* rejection as detailed above.

However, Dunn and Vander Molen references do not explicitly disclose,

- *a personal software application retrieval module that retrieves personal information from a software application based upon the personal software application voice command of the user.*

Kurganov teaches,

- *a personal software application retrieval module that retrieves personal information from a software application based upon the personal software application voice command of the user.* (Kurganov, col.2, lines 59-63; col.5, lines 48-53; Kurganov teaches of a system that includes a database containing user profile information to assist the system in searching and retrieving information according to the user's voice commands)

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine Kurganov reference with Dunn and Vander Molen references to enhance the system by including a database which contains

user profile information to assist the system in searching and retrieving information according to the user's voice commands.

13. Claims 17-26 and 33-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dunn et al. (US005999612A), in view of Vander Molen (US004520576) and further in view of Ball et al. (US006600736B1).

14. With regard to claims 17-26 and 33-41, Dunn and Vander Molen references disclose the invention substantially as claimed,

See *claims 1 and 27* rejection as detailed above.

However, Dunn and Vander Molen references do not explicitly disclose,

- *a voice markup language management module connected to the Internet network in order to retrieve a voice markup language program to interact by a speech-based conversation with the user over the first and second connections.*

Ball teaches,

- *a voice markup language management module connected to the Internet network in order to retrieve a voice markup language program to interact by a speech-based conversation with the user over the first and second connections. (Ball, col.14, lines 43-44)*

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine Ball reference with Dunn and Vander Molen references to enhance the system by utilizing the voice markup language to format the information retrieved by the system at the user's voice command.

Conclusion

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15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- Mazurkiewicz et al. (US005749072A)
- Koyama (US006226361B1)
- Jeon et al. (US005822012A)
- Kahn et al. (US005838665A)
- Creamer et al. (US006028917A)


16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas Duong whose telephone number is 703/305-1886. The examiner can normally be reached on M-F 7:30AM - 4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A Wiley can be reached on 703/308-5221. The fax phone numbers for the organization where this application or proceeding is assigned are 703/872-9306 for regular communications and 703/872-9306 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703/305-3900.

Thomas Duong (AU2143)

June 15, 2004


DAVID WILEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100